

within 10 percent of the actual figure, and if an individual portion of the data is voluminous, at least one percent representative of that portion is individually summarized in this manner); or

(2) A statement itemizing those portions of the proprietary information which cannot be summarized adequately and all arguments supporting that conclusion for each portion.

(3) All requests for proprietary treatment of information contained in petitions submitted under § 353.12 and proposed suspension agreements submitted under § 353.18(g)(1)(i) shall be accompanied by a public summary and statement described in paragraphs (b)(1) and (b)(2) of this section.

(c) *Agreement to release.* All requests for proprietary treatment shall include either an agreement to permit disclosure under administrative protective order, or a statement itemizing which portions of the proprietary information should not be released under administrative protective order and all arguments supporting that conclusion for each portion. The Secretary ordinarily will not provide the submitter further opportunity for argument on whether to grant a request for disclosure under administrative protective order.

(d) *Return of information as a result of nonconforming request.* The Secretary may return to the submitter any factual information for which the submitter requested proprietary treatment when the request does not conform to the requirements of this section and in any event will not consider the information. If the Secretary returns the information, the Secretary will provide a written explanation of the reasons why it does not conform and will not consider it unless it is resubmitted with a new request which complies with the requirements of this section not later than two business days after receipt of the Department's explanation for rejection of the information.

(e) *Status during consideration of request.* While considering whether to grant a request for proprietary treatment, the Secretary will not disclose or make public the information. The Secretary normally will decide not later than 14 days after the Secretary receives the request.

(f) *Treatment of proprietary information.* Unless the Secretary otherwise provides, the person to whom the Secretary discloses information shall not disclose the information to any other person. The Secretary may disclose factual information which the Secretary decides is proprietary only to:

(1) A representative of an interested party who requests and is granted an administrative protective order under § 353.34;

(2) An employee of the Department directly involved in the proceeding for which the information is submitted;

(3) An employee of the Commission directly involved in the proceeding for which the information is submitted;

(4) An employee of the Customs Service directly involved in conducting a fraud investigation relating to an anti-dumping duty proceeding on the merchandise;

(5) Any person to whom the submitter specifically authorizes (in writing) disclosure; and

(6) A charged party or counsel for the charged party under part 354 of this title (19 CFR Part 354).

(g) *Denial of request for proprietary treatment.* If the Secretary decides that the factual information does not warrant proprietary treatment in whole or in part, the Secretary will notify the submitter. Unless the submitter agrees that the information be considered public, the Secretary will return the information to the submitter with written notice stating the reasons for return of the information and will not consider it in the proceeding.

[54 FR 12769, Mar. 28, 1989; 54 FR 13294, Mar. 31, 1989, as amended at 57 FR 30903, July 13, 1992]

§ 353.33 Information exempt from disclosure.

Privileged or classified information is exempt from disclosure to the public or to representatives of interested parties.

§ 353.34 Disclosure of proprietary information under administrative protective order.

(a) *In general.* Upon receipt of an application (before or after receipt of the information requested) which describes